HON'BLE DR. JUSTICE K.G. SHANKAR

WRIT PETITION NO. 14444 OF 2002

ORDER:

The sole petitioner seeks for the setting aside of the award of the Industrial Tribunal-II, Hyderabad dated 10.4.2001 in I.D.No. 149 of 2000 and to order reinstatement of the petitioner together with all service benefits.

The petitioner joined as a Conductor of APSRTC ('the Corporation' for short) in December 1991. His services were regularised with effect from 19.1.1993. The petitioner allegedly resorted to cash and ticket irregularity on 22.6.1996 while he was acting as Conductor of bus travelling from Mettabasupally to Tandur. A charge sheet was issued containing the following charge:

> "For having issued unauthorised tickets bearing Nos. 494/010168 to 010188 of Rs. 2.75 denomination by altering as Rs. 3,25 denomination at mittabaspally to 21 individual passengers who were found alighting at Tandur, and the same are not accounted in the way bill and thus you have defrauded the revenues of the Corporation, which constitute serious misconduct under Reg. 23 (x) of APSRTC Employees (Conduct) Regulation, 1963 read with note 2 of Regulation 9 (i) of APSRTC Employees (C.C & A) Reg. 1963."

The petitioner was subjected to enquiry and was found guilty

on the ground that the petitioner was issued unconcerned tickets. The disciplinary authority ordered removal of the petitioner from service. After exhausting the administrative remedies, the petitioner raised an industrial dispute. The learned Presiding Officer of the Industrial Tribunal-II, Hyderabad returned a nil award holding that the removal of the petitioner from service was just and reasonable. A writ of certiorari consequently is sought to set aside the award of the Tribunal.

It is the case of the Corporation that the petitioner issued unauthorised tickets of Rs. 2.75ps denomination by altering the same as Rs. 3.25ps denomination to 21 passengers and thus defrauded the revenues of the Corporation leading to misconduct under Regulation 23 (x) of A.P.S.R.T.C Employees (Conduct) Regulation, 1963 (Conduct Regulations, for short) read with Note 2 of Regulation 9 (i) of the APSRTC Employees (CC &A) Regulations 1963 (CCA Regulations, for short).

It is the contention of the learned counsel for the petitioner that the petitioner did not commit any misappropriation and re-issue of tickets; nor did he alter the Statistical Return and the waybill so much so the punishment is not justified.

It is the case of the petitioner that he collected ticket blocks together with the tray from the Assistant Depot Clerk and did not verify the ticket blocks owing to shortage of time. It is his contention that the fare from Mittabaspalli to Tandur was enhanced from Rs. 2.75 ps to Rs. 3.25ps and that as the petitioner possesses only Rs. 2.75 ps tickets, he issued the same but collected Rs. 3.25 ps from each of the passengers. He admitted that perhaps the ticket block was not entered in the way bill by the Assistant Depot Clerk (ADC, for short) and defended that if the ADC had not so entered the ticket blocks in the waybill, the petitioner cannot be found fault with. The learned counsel for the petitioner submitted that the block from which tickets were issued by the petitioner indeed belongs to the Corporation. More

important, it is contended by the learned counsel for the petitioner that this is not a case where the petitioner collected fare from the passengers but failed to issue tickets; nor is it a case where the petitioner collected excess money and issued a less denomination tickets. Admittedly, it was shown in the Statistical Return that the petitioner collected Rs. 3.25 ps from each of the 21 passengers. He accounted for the same when the bus returned to the depot. Thus, the petitioner did not commit any misappropriation. The Corporation did not suffer any loss and cannot claim that it was defrauded by the petitioner. The only shortfall on the part of the petitioner is collecting the ticket blocks along with the tray without verifying the same under the presumption that the ADC would properly number them in the waybill. There is no dispute that the tickets issued by the petitioner did not figure in the waybill. In the strict sense, it is tantamount to issuing unconcerned tickets. However, it is not as though the petitioner issued used tickets. The petitioner issued tickets from the block received by him from ADC. Where there was no misappropriation nor was there collection of lesser fare from the passengers than required, I am afraid that the activity of the petitioner cannot be considered to be a misconduct of any magnitude. I do not consider that the Corporation has proved that the petitioner was guilty of misconduct and also deserved the penalty of removal from service.

The finding of the learned Presiding Officer of the Industrial Tribunal is without proper reasoning and is perverse. Consequently, the order of the Tribunal is set aside. The petitioner is found not guilty of the charge levelled against him. The removal of the petitioner consequently is set aside. The petitioner is directed to be reinstated into service with continuity of service and attendant benefits. He shall however be not entitled to backwages from the date of removal till the date of reinstatement.

Accordingly, the Writ Petition is allowed. No costs. Miscellaneous petitions, pending if any in this Writ Petition, shall also stand closed.

DR.JUSTICE K.G.SHANKAR

DATE: 31.12.2013

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